

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY AVERAGE
WHOLESALE PRICE LITIGATION

MDL No. 1456

C.A. No. 01-12257-PBS

THIS DOCUMENT RELATES TO:

*International Union of Operating Engineers, Local No.
68 Welfare Fund v. AstraZeneca Pharmaceuticals, L.P.,
et al.; C.A. No. 04-11503-PBS*

Judge Patti B. Saris

**MOTION BY INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL
NO. 68 WELFARE FUND FOR WAIVER OF ELECTRONIC FILING PERTAINING
TO ITS SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION FOR REMAND**

On April 22, 2005, as per the request of the Honorable Patti B. Saris at the hearing held on April 8, 2005, plaintiff, International Union of Operating Engineers, Local No. 68 Welfare Fund (hereinafter "plaintiff" or "Local 68") filed its Supplemental Brief in Support of Motion for Remand. However, said brief has been rejected for failure to file same electronically. Because the undersigned has been advised that it will take two (2) weeks to be able to electronically file, plaintiff seeks a waiver of the electronic filing requirement.

Briefly, by way of history, plaintiff filed its class action complaint on June 30, 2003 in the Superior Court of New Jersey, Monmouth County. On July 3, 2003 defendant, AstraZeneca filed its notice of removal. Plaintiff moved for remand on July 9, 2003, and briefing on remand was completed, all briefs having been filed with the United States District for the District of New Jersey.

Thereafter, a conditional transfer order was entered by the judicial panel on multidistrict litigation.¹ Since that time, plaintiff has been awaiting a ruling on its motion for remand and has not participated in discovery or filed any pleadings in the instant case except for the aforementioned Supplemental Brief in Support of Motion for Remand.

Days before plaintiff was to appear before the Court at the April 8, 2005 hearing, plaintiff received a call from this Court indicating that the United States District Court for the District of New Jersey had never forwarded any of the briefing on remand in this matter to this Court. Therefore, as per this Court's request, plaintiff forwarded all relevant briefing on remand to this Court in advance of the hearing.

At the hearing held on April 8, 2005, the Honorable Patti B. Saris requested that plaintiff file a supplement brief respecting its motion for remand as the prior briefing on remand was almost two (2) years old. On April 22, 2005, Local 68 filed its Supplemental Brief in Support of Motion for Remand. However, on May 6, 2005, the undersigned counsel received a Notice of Rejection of Filing of same, dated May 3, 2005, indicating that based upon the procedural order requiring electronic filing in all cases as of April 1, 2005, the Supplemental Brief was being rejected for filing. According to the Notice of Rejection, the undersigned has three (3) business days from the receipt of the notice to re-file its brief electronically or seek a waiver by motion.

The undersigned has endeavored to sign up for electronic filing, so that the brief could be filed electronically immediately. However, the undersigned has been told that the process will take two (2) weeks. Therefore, in order to comply with the 3-day requirement of the Notice of Rejection of


¹ Despite the JPMDL's Order, this case was transferred to this Court, but, was never formally consolidated with the instant MDL. Rather, this case remained as a separately docketed case.

Filing and to ensure that the Supplemental Brief in support of Local 68's Motion for Remand is accepted for filing by the Court, Local 68 hereby moves for a waiver of electronic filing.

Date: May 9, 2005

Respectfully submitted,

Ronald J. Ranta, Esquire
FISSETTE & RANTA
B.B.O. No. 411880
222 Rosewood Drive
10th Floor
Danvers, MA 01923
978-750-8701 telephone
978-750-8702 facsimile



Shanin Specter, Esquire
Donald E. Haviland, Jr., Esquire
TerriAnne Benedetto, Esquire
KLINE & SPECTER
1800 Chapel Avenue, Suite 302
Cherry Hill, NJ 08002
856-662-1180 telephone
856-662-1184 facsimile

John E. Keefe, Jr., Esquire
Stephen T. Sullivan, Jr., Esquire
LYNCH ♦ MARTIN
830 Broad Street
Shrewsbury, NJ 07702
732-224-9400 telephone

Raymond A. Gill, Jr., Esquire
GILL & CHAMAS
655 Florida Grove Road
P.O. Box 760
Woodbridge, NJ 07095
732-324-7600 telephone
732-324-7606 facsimile
ATTORNEYS FOR PLAINTIFF AND THE CLASS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion by International Union of Operating Engineers, Local No. 68 Welfare Fund for Waiver of Electronic Filing Pertaining to its Supplemental Brief in Support of Motion for Remand was served on all counsel on the attached Service List by electronic service pursuant to Case Management Order No. 2. The counsel listed below are not registrants of Verilaw and are being served First Class mail.

Michael Mustokoff, Esquire
DUANE MORRIS LLP
One Liberty Place, Suite 4200
Philadelphia, PA 19103-7396
National counsel for Saad Antoun, M.D.

Terry K. Sherman, Esquire
52 West Whittier Street
Columbus, OH 43206
National counsel for defendant,
Robert A. Berkman, M.D.

Jack Fernandez, Esquire
ZUCKERMAN, SPAEDER, LLP
101 E. Kennedy Blvd., Suite 1200
Tampa, FL 33602
National counsel for defendant,
Stanley C. Hopkins, M.D.

Respectfully submitted,

Dated: May 9, 2005



TerriAnne Benedetto, Esquire
KLINE & SPECTER
1800 Chapel Avenue, Suite 302
Cherry Hill, NJ 08002
856-662-1180 telephone
856-662-1184 facsimile

IN RE: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION;
MDL No. 1456 -- Service List

PLAINTIFFS

Attorney General, State of Connecticut
55 Elm Street, P.O. Box 120
Hartford, CT 06141-012
(860)808-5355
State of Connecticut

Bolognese & Associates, LLC
One Penn Center
650
Philadelphia, PA 19103
215-814-6750
United Food and Commercial Unions and Employers Midwest Health Benefits Fund and Action Alliance of Senior Citizens of Greater Philadelphia

Heins Mills & Olson, P.L.C.
700 Northstar East
608 Second Ave. S.
Minneapolis, MN 55402
(612) 338-4605
Fax: 612-338-4692
AWP

Hoffman & Edelson, LLC
45 West Court Street
Doylestown, PA 18901
215-230-8043
Action Alliance of Senior Citizens of Greater Philadelphia

Hulett Harper LLP
550 West C St.
Suite 1770
San Diego, CA 92101
619-338-1133
Dey Sicor Gensia

Keller Rohrback, L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-305
206.623.1900
Action Alliance of Senior Citizens of Greater Philadelphia

Kirby, McInerney & Squire, LLP
830 Third Ave., 10th Floor
New York, NY 10022
212-317-2300
Suffolk County

Moscone, Emblidge & Quadra, LLP
180 Montgomery Street, Suite 1240
San Francisco, CA 94104
415-362-3599
Constance Thompson & John Rice

Murray & Howard, LLP
436 14th Street, Suite 1413
Oakland, CA 94102-540
510-444-2660
Turner v. Abbott

Piper & Associates
624 Pierre Avenue
Shreveport, LA 71103
318-226-0826
Maggie Hudson & Mary Helen Robinson

Roda & Nast, P.C.
801 Estelle Drive
Lancaster, PA 17552
(717) 892-3000
Action Alliance of Senior Citizens of Greater Philadelphia

Rossbacher & Assoc.
811 Wilshire Boulevard, Suite 1650
Los Angeles, CA 90017
213-895-6500
Dr. Shirley Geller

Shepherd, Finkelman, Miller & Shah, LLC
35 E. State Street
Media, PA 19063
610-891-9880
Board of Trustees of Carpenters and Millwrights of

Spector, Roseman & Kodroff, P.C.
1818 Market Street, Suite 2500
Philadelphia, PA 19103
215-496-0300

Teamsters Health & Welfare Fund: Of Philadelphia and Vicinity

Squitieri & Fearon, LLP
521 Fifth Ave., 26th floor
New York, NY 10175
646-487-3049

Twin Cities Bakeries Fund

Stern Shapiro Weissberg & Garin
90 Canal St.
Boston, MA 02114
617-742-5800

Ven-A-Care of The Florida Keys, Inc.

Trujillo Rodriguez & Richards, LLC
3 Kings Highway East
Haddonfield, NJ 08033
856-795-9002

Action Alliance of Senior Citizens of Greater Philadelphia; Twin Cities Bakery Workers Health and Welfare Fund; United Food and Commercial Workers Unions and Employers Midwest Health Benefits Fund

Weller, Green, Toups & Terrell, L.L.P.
2615 Calder, Suite 400
P.O. Box 350
Beaumont, TX 77704
409-838-0101

Board of Trustees of the Carpenters and Millwrights of Houston & Vicinity Welfare Trust Fund

DEFENDANTS

Arent Fox Kintner Plotkin & Kahn PLLC
1050 Connecticut Avenue, NW
Washington, DC 20036
202-857-6000
Chiron Corporation

Arnold & Porter/Endo
555 12th Street NW
Washington, DC 20004
202-942-5000
Endo Pharmaceuticals, Inc.

Ballard Spahr Andrews & Ingersoll, LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
215-665-8500
Immunex Corp.

Baxter Healthcare Corp.
One Baxter Parkway
Deerfield, IL 60015-463
847-948-4971
Baxter Healthcare Corp.

Bingham McCutchen, LLP
150 Federal St.
Boston, MA 02110
617-951-8000
Fujisawa Healthcare, Inc.; Takeda Chemical Industries Ltd.; Together Rx LLC

Chiron Corporation
4560 Horton Street
MS/R-422
Emeryville, CA 94608-291
510-923-3974
Chiron Corporation

Coudert Brothers
1114 Avenue of the Americas
New York, NY 10036
212-626-4400
Dey, Inc.

Covington and Burling
1201 Pennsylvania Avenue, NW
Washington, DC 20004
202-662-6000
GlaxoSmithKline

Davis Polk and Wardwell
450 Lexington Avenue
New York, NY 10017
212-450-4000
AstraZeneca Pharmaceuticals, L.P.

Dechert Price & Rhoads
1717 Arch Street
Bell Atlantic Tower
Philadelphia, PA 19103-279
(215) 994-2489
GlaxoSmithKline

Dickstein Shapiro Morin & Oshinsky LLP
2101 L St. NW
Washington, DC 20037
202-785-9700
Baxter International, Inc.; Baxter Healthcare Corp.; Baxter Pharmaceutical Products, Inc.

DKW LAW GROUP, PC
58TH Floor, U.S. Steel Tower
600 Grant Street
Pittsburgh, PA 15219
412-355-2973
Mylan Laboratories, Inc.

Donnelly, Conroy & Gelhaar, LLP
One Beacon St., 33rd floor
Boston, MA 02108
617-720-2880
Baxter International, Inc.; Baxter Healthcare Corp.; Baxter Pharmaceutical Products, Inc.

Dornbush Mensch Mandelstam & Schaeffer, LLP
747 Third Avenue
New York, NY 10017
212 759-3300
Forest

Dwyer & Collora, LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
617-371-1000
Bristol-Myers Squibb Co.

Foley Hoag LLP
155 Seaport Blvd.
Boston, MA 02210
617-832-1000
AstraZeneca Pharmaceuticals, L.P.

Gibbons, Del Deo, Dolan, Griffinger & Vecchione, P.C.
One Riverfront Plaza
Newark, NJ 07102
973-596-4753
Berlex Laboratories, Inc.

Goulston & Storrs
400 Atlantic Avenue
Boston, MA 02110
617-482-1776
Immunex Corp.

Greenberg Traurig, LLP
One International Place
Boston, MA 02110
617-310-6000
Mylan Laboratories, Inc.

Hogan & Hartson L.L.P.
555 Thirteenth St., NW
Washington, DC 20004
202-637-6853
*Amgen Inc.; Aventis; Behring; Bristol-Myers Squibb Co.; Oncology Therapeutics Network Corp.;
Holland & Knight GlaxoSmithKline*

Hughes Hubbard & Reed
1775 I Street N.W.
Washington, DC 20006
202-721-4600
Fax: 202-721-4646
Merck & Co., Inc.

Hyman, Phelps & McNamara, P.C.
700 13th Street, N.W., Suite 1200
Washington, DC 20005
202-737-9624
Watson Pharma, Inc.

Irell & Manella LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067
310-277-1010
IVAX Corp.

Jenner & Block, LLC
330 N. Wabash
One IBM Plaza
Chicago, IL 60611
312-222-9350
Takeda Chemical Industries, Ltd.

Jones Day
77 W. Wacker Dr Suite 3500
Chicago, IL 60601
312-782-3939
Abbott Laboratories and Abbott Laboratories, Inc.

Kelley Drye & Warren LLP
101 Park Avenue
New York, NY 10178
212-808-7800
Dey, Inc.

Kelly, Libby & Hoopes, P.C.
175 Federal St.
Boston, MA 02110
617-338-9300
Amgen Inc.

King & Spalding, LLP
1730 Pennsylvania Avenue, NW
Washington, DC 20016
202-737-0500
Hofmann-La Roche Inc.

Kirkland & Ellis LLP
655 Fifteenth Street, NW
Washington, DC 20005
(202) 879-5000
B. Braun Medical Inc.

Kirkpatrick & Lockhart Nicholson Graham LLP
75 State Street
Boston, MA 02109
617-261-3100
Aventis Pharmaceuticals, Inc.

Knapp, Petersen & Clarke
500 North Brand Blvd
Twentieth Floor
Glendale, CA 91203-190
(818) 547-5000
Alpha Therapeutic Corp.

Laredo & Smith, LLP
15 Broad Street, Suite 600
Boston, MA 02109
617-367-7984
Pharmacia Corporation; Pharmacia & Upjohn, Inc; and Monsanto Company

Law Office of Robert A. Griffith
67 Batterymarch Street, Suite 400
Boston, MA 02110
617-338-7277
Watson Pharma, Inc.

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
701 Pennsylvania Avenue, N.W.
Suite 900
Washington, DC 20004
202-434-7300
Eli Lilly and Company

Morgan Lewis and Bockius
1701 Market Street
Philadelphia, PA 19103
215-963-5000
Pharmacia Corporation

Morgan, Lewis & Bockius LLP
300 South Grand Avenue
Suite 2200
Los Angeles, CA 90071
(213) 612-2500
Pharmacia Corporation; Pharmacia & Upjohn, Inc; and Monsanto Company

Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103
(215) 963-5322
Fax: (877) 432-9652
Pfizer, Inc. (Pharmacia)

Morrison & Foerster - AWP
5200 Republic Plaza
370 Seventeenth Street
Denver, CO 80202
303.592.1500
Purdue Pharma L.P.

Nixon Peabody LLP
101 Federal St.
Boston, MA 02110
617-345-1000
Alpha Therapeutic Corp.

Nixon Peabody LLP
101 Federal Street
Boston, MA 02110
617-951-6600
Bayer Corp.; Allergan, Inc.

Nutter, McClennen & Fish, LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210
Nabi Biopharmaceuticals

Ober, Kaler, Grimes & Shriver
120 E. Baltimore St.
Baltimore, MD 21202
410-685-1120
American Home Products (Wyeth)

Patterson, Belknap, Webb & Tyler LLP
1133 Avenue of the Americas
New York, NY 10036
212-336-2000
Johnson & Johnson; Centocor, Inc.; Ethicon Endo-Surgery, Inc.; ALZA Corp.

Peabody & Arnold, LLP
30 Rowes Warf
Boston, MA 02110-334
617-951-2100
Hoffmann-La Roche, Inc.

Perkins Coie
1201 Third Avenue, Suite 4800
Seattle, WA 98101
206-583-8888
Immunex Corp.

Pillsbury Winthrop LLP
2550 Hanover Street
Palo Alto, CA 94304
650.233.4500
SICOR Inc.; Gensia SICOR Pharmaceuticals, Inc.

Piper Rudnick LLP
One International Place
21st Floor
Boston, MA 02110
617-406-6000
SICOR Inc.; Gensia SICOR Pharmaceuticals, Inc.

Reed Smith, LLP
1301 K St., N.W.
Suite 1100 East Tower
Washington, DC 20005
202-414-9200
Faulding Pharmaceuticals; Fujisawa Healthcare, Inc.

Ropes and Gray
One International Place
Boston, MA 02110
617-951-7000
Schering-Plough Corporation; Warrick Pharmaceuticals

Sherin and Lodgen LLP
100 Summer Street
Boston, MA 02110
617-646-2000
Sicor, Inc.

Shook, Hardy & Bacon LLP
2555 Grand Blvd.
Kansas City, MO 64108
816-474-6550
Fax: 816-421-5547
Aventis Pharmaceuticals, Inc.

Sidley Austin Brown & Wood
10 S. Dearborn St.
Chicago, IL 60603
312-853-7000
Bayer Corp.; Allergan, Inc.

Testa, Hurwitz and Thibault, LLP
125 High Street
Boston, MA 02110
617-248-7000
Abbott Laboratories and Abbott Laboratories, Inc.

Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, OH 43216-100
614-464-6400
Bedford Laboratories

White & Case LLP
1155 Avenue of the Americas
New York, NY 10036
(212) 819-8200
Geneva Pharmaceuticals, Inc.

Williams & Connolly LLP
725 12th Street, NW
Washington, DC 20005
(202) 434-5526
Medimmune, Inc.

Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, MA 02109
617-526-6000
American Home Products (Wyeth)